



THE COMMISSIONER OF SOCIAL SECURITY

BALTIMORE, MARYLAND 21230

FEB 10 1989

Refer to:
SEP71

Mr. W. R. Henshall
P.O. Box 451 Estudillo Station
San Leandro, California 94580

Dear Mr. Henshall:

This is in response to your letter of January 29. The document you sent us in no way affects your rights or responsibilities under the Social Security Act.

There is no law that requires someone to obtain a Social Security number. However, the Internal Revenue Code (26 U.S.C. 6109 (a)) and applicable regulations (26 CFR 301.6109-1(d)) require an individual to get and use a Social Security number on tax documents and to furnish that number to any other person or institution (such as an employer or a bank) that is required to furnish to the Internal Revenue Service (IRS) information about payments to the individual. There are penalties for failure to do so (see 26 U.S.C. 6676 (a) and 26 CFR 301.6676-1).

We assign a Social Security number to a person when we have received a valid application. Thereafter, we credit earnings to that number since the Social Security benefits for a worker and his or her family depend on the worker's earnings.

Section 205 (c)(2)(A) of the Social Security Act requires the Social Security Administration to establish and maintain records of wages and self-employment income for each individual whose work is covered under the program and a Social Security number is needed for that purpose. The IRS requires employers to submit Social Security numbers with employee earnings. Workers who object to providing their Social Security numbers to employers for religious or other reasons should contact the IRS office in their area to see if any exceptions are allowed.

The Supreme Court held that the Social Security Act was constitutional not long after the law's enactment in the 1930's. In a more recent decision (United States v. Lee, 455 U.S. 252), the Supreme Court upheld the constitutionality

of the provision of the Social Security Act requiring employers to withhold Social Security taxes from employees' wages and to pay taxes to IRS. The Court stated: "The design of the system requires support by mandatory contributions from covered employers and employees. This mandatory participation is indispensable to the fiscal vitality of the Social Security system."

Without a Social Security number, we cannot enter earnings on the worker's record but could subsequently credit them to the worker's record if the worker furnishes his or her Social Security number and evidence of earnings.

We do not have the authority to require an employer to provide or deny employment or services to anyone who refuses to disclose his or her number. This is a matter between the individual and the employer.

We are returning the self-addressed envelope you enclosed with your letter.

Sincerely,

Dorcas R. Hardy
Dorcas R. Hardy
Commissioner
of Social Security

Enclosure